



Rakesh Law Foundation



M & L LEGAL



B.R AMBEDKAR MEMORIAL ANNUAL HUMAN RIGHTS MOOT COURT COMPETITION

Competition Date

10TH DECEMBER, 2022

Venue-J.B Law College, Moot Court Hall

Organised by:

J.B Law College, Guwahati

**In Association with Assam Human
Rights Commission**

Sponsored by:

**M and L Legal Law Chambers Guwahati
and Rakesh Law Foundation
Chennai, India**

J.B LAW COLLEGE-50 YEARS OF GLORIOUS EXISTENCE

Introduction

The B.R Ambedkar Memorial Annual Human Rights Moot Court Competition is hosted by J.B Law College to commemorate the Human Rights day and communicate the significance of human rights to the world in the form of simulation of a court procedure. With a view to inculcate mooting spirit and culture amongst the students and empowering the students with required skills like critical thinking, communication skills, confidence building, this moot court is an opportunity to approach a human rights issue of the contemporary times and analyse it from all possible angles. Art of advocacy is quintessential for a legal career and the same can be learnt through moot courts. J.B Law College is committed to bring forth law abiding citizens aware of the current societal problems and rigorous training of students through moots has been an integral part of the curriculum

Objectives

The primary objective of the B.R Ambedkar Memorial Annual Human Rights Moot Court Competition is to inculcate advocacy skills, critical thinking and research skills amongst the law students

Eligibility

Students those who are registered fulltime students of law colleges and law universities of Assam

Official Language

The official working language of the Moot Court competition is English.

Team Composition

Each participating team shall consist of three student members, i.e., two speakers (Mooters) and one researcher.

Memorial

All memorials submitted for all purposes of the Competition shall strictly adhere to the rules of the Competition. Each Team participating in the Competition must prepare one Memorial on behalf of Petitioner(s)/ Appellant(s) and one on behalf of the Respondent(s). Petitioner memorials are required to have a Blue cover and Respondent memorials are required to have a Red cover

Soft Copies of Memorials are to be mailed to rishov.bora@gmail.com on or before 5.12.2022

Registration on Spot. Registration Fees- Rs.300/-

For further queries contact Pranjit Sharma(+916000959194)

Dr. Mayashree Gharphalia (+917002825264)

MOOT PROPOSITION

1. The state of Tiramisu is a quasi-federal state with strong unitary features. Tiramisu, which became a sovereign democratic republic in 1947, comprises more than 25 states and a few union territories. It follows a parliamentary system of government with the federal Parliament comprising upper and lower houses. An indirect method of election is followed to choose members of the upper house while a direct method (wherein adults above the age of 18 years exercise their voting rights) is followed to choose members of the lower house. Both the houses are headed by the President, who is only a titular head of the state. The actual powers under the parliamentary system lie with the Prime Minister, the de facto chief of the state of Tiramisu the Prime Minister heads the council of ministers, who represent the majority party in the lower house of the parliament. Right now, the majority party in Tiramisu is the People's Party.
2. A bill (except a money bill, in which case the bill has to be originated in the lower house only) may be originated either in the upper house or in the lower house, as the case may be, and after the bill is passed in both the houses of the Parliament after relevant deliberations and scrutiny (by a few Parliamentary Committees established for this purpose), it is sent for the assent of the President of the state of Tiramisu. Once the President accords assent to the bill, it becomes an Act, a living law.
3. Compared to the neighbors, Tiramisu is a rich country and provides a lot of work opportunities to its citizens. For this, many communities and social groups living in the adjoining countries have been migrating to Tiramisu legally or illegally. The Alger community is one of those that has consistently crossed borders in search of better lives and livelihood in Tiramisu since past few years, the number of people crossing borders has been severe high resulting in sporadic protests by the local communities especially those thriving in the border regions. The localities alleged that their work opportunities had terribly shrunk because of such migration. Following a series of protests across various border regions of the state of Tiramisu regarding illegal immigration of people especially from the Alger community, a minister from the People's Party tabled a bill in the lower house of the Parliament of Tiramisu. The bill was called the Citizenship (Amendment) Bill, 2019. After intense deliberations and heated debates, the bill eventually was passed and became an Act, i.e. The Citizenship Amendment Act, 2019 on 10.12.2019. The Act amends the relevant provisions of the Citizenship Act, 1955, including the third schedule, and the Citizenship Rules, 2003. It redefines the contours of acquisition and determination of citizenship by excluding Alger who live in large numbers in the border states adjoining Tiramisu with other states. The Act allows all other communities stating that all of them barring Alger had fled persecution in their respective home countries neighboring Tiramisu. The Act forbids only Alger from being natural citizens thereby dividing the population of the state on racial/ethnic basis, in clear violation of equal protection clauses enshrined under Articles 14 and 15 of the Constitution of Tiramisu, 1949.
4. As an administrative measure to curb the menace of illegal immigration, the federal government initiated a process of creating a National Register of Citizens (NRC) in tune with the mandates of the Citizenship (Amendment) Act, 2019 to enlist the names of all citizens of the state of Tiramisu including those who migrated to Tiramisu till date. The NRC was not only meant to streamline the names of the citizens against non-citizens but also create a National Population Register, an all-inclusive identity database containing demographic biometric particulars of every resident in the country. The NRC process is being supervised by the Supreme Court of the state of Tiramisu.
5. As a pilot model, the NRC was first taken up in Asalsa, one of the north-western states of Tiramisu, which faces recurrent problems of cross-border infiltration, especially in reference to Alger, Asalsa has a total population of about nine million, which is nearly one-tenth population of the whole state of Tiramisu. The first NRC list which was published on 31.10.2020, excluded approximately half million people from the NRC list, which was compiled based on certain indicators as decided by the federal government on the basis of existing provisions (constitutional and statutory) on citizenship. The draft revealed that most of the excluded people did not have a reliable citizenship proof to support their cause.
6. Following the publication of the NRC list under the supervision of the Supreme Court, which saw more than half a million names, especially of Alger, excluded, rampant mass protests erupted in different parts of Asalsa, so much so that public life across the state was severely paralyzed. Stray incidents of violence were also reported from tension-prone areas and quite a few government offices and buildings were

vandalized, and a few public vehicles were torched. It was alleged that the violent activities were carried out especially by a section of those excluded people who were facing the imminent danger of statelessness and subsequent deportation to the countries they originally belonged to. The state government of Asalsa found it hard to tackle such a sensitive issue.

7. Asalsa state capital is Gumroso, a happening place that integrates varied customs and tradition, promotes the culture of democratic protests and protects fundamental freedoms of individuals and social groups. The blending of culture, the mixing of races and other cultural and social peculiarities typical to Gumroso has motivated the establishment of diverse institutions and cultural and social organizations that vouch for human rights, animal rights, green environment, refugee-related problems, drug trafficking, etc., among other things. Most of these social organizations are incorporated and registered either under the Societies Registration Act, 1860 or under the Tiramisu Trusts Act, 1882.
8. The Gumroso Law Forum (GLF) is one such organization that was incorporated in 1982 as per the relevant provisions of the Societies Registration Act, 1860. The primary objectives of this organization are to fight for social causes, to ensure access to justice by providing free legal aid to those who can't afford it, to promote legal awareness by using the media, including new media, and to publish articles and reviews in a quarterly journal, a registered one, relating to laws and their violations. GLF is headed by eminent jurists, journalists, social scientists and activists.
9. The Forum had often filed Public Interest Litigations and writ petitions both in the High Court of Asalsa and in the Supreme Court of Tiramisu. Following the mass protests on the Citizenship (Amendment) Act, 2019 and the NRC data collection process, the Forum decided to file a writ petition before the Hon'ble High Court of Asalsa, where the petition questioned the constitutionality of the Citizenship (Amendment) Act, 2019 in light of Articles 14 and 15 of the Constitution of Tiramisu, 1949, and the veracity of the NRC data collection process. The Hon'ble High Court of Asalsa admitted the petition and kept the date of hearing on 20.03.2020.
10. One of the members of the Forum is Prof. (Dr.) Urmila, a retired professor of Sociology, who has extensively conducted research studies on mass migration, social movements and class conflicts. She is a champion of human rights and a devoted social activist. She served as a professor of the University of Yarsilli between 10.12.1982 to 15.12.2016, following which she superannuated from her post and services. Many Students of the University of Yarsilli and of other academic institutions adore her not only for her oratorical skills but also for her steadfastness and conviction to stand against any violation of human rights and dignity.
11. Prof. (Dr.) Urmila was erstwhile the resident of the state of Southfills. Southfills, which adjoins Tiramisu, is strife with regional and ethnic tensions. She along with her family members moved from the state of Southfills to the state of Tiramisu on 03.12.1962, following ethnic cleansing and a genocide-type situation. When she left her mother state, she was barely 10-years-old. Since then, she and her family has been staying in Asalsa, although they were initially treated as refugees but over time the government of Asalsa started recognizing them as citizens and issued identity cards such as Election card, driving license, etc.
12. The first NRC list classified her and a few of her family members as doubtful or dubious citizens. A few others of her family members were excluded from the list even. She had to run from pillar to post to have the issues addressed through the state government executives. But nothing fruitful ensued and she was subjected to a lot of humiliation and harassment. Demoralized and intimidated by her harrowing experiences, Prof. (Dr.) Urmila decided to pitch the matter up and to sensitize the community about the futility and infinity of the Citizenship (Amendment) Act, 2019 in general and the NRC data collection process in particular. On 7th March, 2020 she addressed a mass gathering in a public place in Gumroso, which witnessed the presence of more than 2000 persons that counted in people from the academia, including a few of her erstwhile colleagues, and a large number of people from the Alger community. Excerpts from her speech,
“Dear all, we must understand that we are in an anarchy. The way the state government of Asalsa is listing citizens only indicate a malafide intention of the government to not only oust a certain community but also promote a totalitarian regime that demeans the culture of protest. The Chief Minister of the state is corrupt and incompetent and is blindly giving in to the dictates of the Prime Minister without even applying his mind ‘Under him, the state of Asalsa and the capital city Gumroso will be converted into a war zone in no time and a genocide-type situation will become the order of the day. When people like me with valid citizenship documents are subjected to such agony, think about those who do not possess requisite documents to prove that they are the citizens of the state of Tiramisu.

Time has come for a change and we must overthrow the state government by any means. We must not take things lying down since the government and its institutions are infringing our human rights, including our right to life and liberty. Under these circumstances, I request you to come forward and join hands to oust the Asalsa government either by force or by any other applicable means....”

13. Following the powerful public speech, many of her followers, friends and colleagues, especially from the GLF, started accusing the incumbent Asalsa government and shared photos, documents and anecdotes alleging the misrule of the government in handling the NRC crisis. When the state government heard about the incident and its aftereffects that led to intense protests across the state of Asalsa, the government through its representatives filed a FIR against Prof. (Dr.) Urmila, charging her with the offence of Sedition. Prof. Urmila was arrested subsequently and was taken out of the state Asalsa to an adjoining state Carltown. There she was kept in preventive detention for 21 days, without being officially told the grounds of her detention.
14. In the meantime, Mr. Derek, a lawyer, filed a bail petition on behalf of Prof. (Dr.) Urmila before the Asalsa District Court saying that the charges of sedition are baseless. He also filed a writ petition before the Hon'ble High Court of Asalsa stating that the arrest and preventive detention of Prof. (Dr.) Urmila was without due process and is therefore in violation of Articles 21 and 22 of the Constitution of Tiramisu, 1949. Mr. Derek also argued that the state of Asalsa did not have the necessary territorial jurisdiction to entertain such preventive detention order and that the detention order was unconstitutional.
15. The petition filed by GLF questioning the constitutionality of the Citizenship (Amendment) Act, 2019 and the veracity of the NRC data collection process and the petition challenging the arrest and preventive detention of Prof. (Dr.) Urmila were clubbed by the Hon'ble High Court of Asalsa. The date of hearing was given on 09.08.2020.

The Hon'ble High Court of Asalsa drew up the following issues:

- (A) Whether the Citizenship (Amendment) Act, 2019 is in violation of Articles 14 and 15 of the Constitution of Tiramisu, 1949?
- (B) Whether the charge of sedition against Prof. (Dr.) Urmila is valid in law and in fact?
- (C) Whether the arrest and detention order of Prof. (Dr.) Urmila is in violation of Articles 21 and 22 of the Constitution of Tiramisu, 1949?